REMARKS

In the pending Office Action, the oath or declaration was alleged to be defective for not identifying the mailing address and residence of each inventor. Also, claims 3, 5, 9, 11, 15, 17, 21, 23, 27, 29, 33 and 35 were objected to as dependent on a rejected based claim, but being allowable if rewritten in independent form to include all of the limitations of the base claim and any intervening claims. Applicants express appreciation for the examiner's favorable consideration of claims 3, 5, 9, 11, 15, 17, 21, 23, 27, 29, 33 and 35. Applicants have rewritten claims 3, 5, 9, 11, 15, 17, 21, 23, 27, 29, 33 and 35 in independent form to include all the limitations of the respective base claim and any intervening claims. Accordingly, claims 3, 5, 9, 11, 15, 17, 21, 23, 27, 29, 33 and 35 should now be allowed.

Further, in the Office Action, claims 1, 2, 4, 6-8, 10, 12-14, 16, 18-20, 22, 24-26, 28, 30-32, 34 and 36 were rejected under 35 U.S.C. § 102(b) as allegedly anticipated by U.S. Patent No. 5,493,670 to Douglis et al.

Applicants respectfully traverse each of the rejections and respectfully requests reconsideration of this application in light of the following remarks.

The objection to the declaration as allegedly defective for not identifying the mailing address and residence of each inventor is respectfully traversed. The declaration does not need to identify the mailing address and residence of each inventor if such information is supplied on an application data sheet in accordance with 37 CFR 1.76. See, 37 CFR 1.63(c)(1). An application data sheet was submitted with the original filing of this application. The application data sheet gives the mailing address and residence of the inventor RAFFI CODILIAN as 34 Rhode Island, Irvine, CA 92606, and the mailing address and residence of the inventor ANIL SAREEN as 32 Rimani Drive, Mission Viejo, CA 92692. Further, a "a deficiency in the oath or declaration can be corrected by a supplemental paper such as an application data sheet (see 37 CFR 1.76 and MPEP § 601.05) and a new oath or declaration is not necessary. See 37 CFR 1.63(c)(1) and

(c)(2)." See, MPEP 602.01. Applicants request that the Examiner identify the specific error in the application data sheet for correction in a supplemental application data sheet.

The rejection of independent claim 1 as allegedly anticipated by the Douglis patent is respectfully traversed. Independent claim 1 recites "setting first and second time period thresholds, the first time period threshold being less than the second time period threshold". The Douglis patent fails to disclose first and second time period thresholds. Instead, the Douglis patent discloses only one threshold that is adjusted up or down based on whether an acceptable or an unacceptable disk spin down occurs. See, column 10, lines 7-35, and column 12, lines 3-10. Also, claim 1 recites three time periods: "a time period less than the first time period threshold", "a time period greater than the second time period threshold", and "a time period between the first time period threshold and the second time period threshold." A delay time interval is set to one of the first or second time period thresholds based on the distribution of demand time intervals falling in the three time periods. Because the Douglis patent teaches only one threshold, it discloses only two time periods, one time period that is greater than the threshold, and another that is less than the threshold. Thus, the Douglis patent fails to disclose setting a delay time interval based on demand time intervals falling within three time periods, as recited in claim 1. Accordingly, independent claim 1 defines a patentable advance over the Douglis patent, and should now be allowed.

Claims 2, 4 and 6 depend on independent claim 1, and for the reasons given above with respect to independent claim 1, likewise should now be allowed.

The rejection of independent claim 7 as allegedly anticipated by the Douglis patent is respectfully traversed. Independent claim 7 recites "setting first, second and third time period thresholds, the first time period threshold being less than the second time period threshold and the second time period threshold being less than the third time period threshold". The Douglis patent fails to disclose first, second and third time period thresholds. Instead, the Douglis patent discloses only one threshold that is adjusted up or down based on whether an acceptable or an

unacceptable disk spin down occurs. See, column 10, lines 7-35, and column 12, lines 3-10. Also, claim 1 recites four time periods: "a time period less than the first time period threshold", "a time period greater than the third time period threshold", "a time period between the first time period threshold and the second time period threshold", and "a time period between the second time period threshold and the third time period threshold." A delay time interval is set to one of the first, second or third time period thresholds based on the distribution of demand time intervals falling in the four time periods. Because the Douglis patent teaches only one threshold, it discloses only two time periods, one time period that is greater than the threshold, and another that is less than the threshold. Thus, the Douglis patent fails to disclose setting a delay time interval based on demand time intervals falling within four time periods, as recited in claim 7. Accordingly, independent claim 7 defines a patentable advance over the Douglis patent, and should now be allowed.

Claims 8, 10 and 12 depend on independent claim 7, and for the reasons given above with respect to independent claim 7, likewise should now be allowed.

The rejections of claims 13, 14, 16 and 18 and claims 25, 26, 28 and 30 as allegedly anticipated by the Douglis patent are respectfully traversed. Claims 13, 14, 16 and 18 are apparatus claims directed to a mobile device having a disk drive, and correspond to the method claims 1, 2, 4 and 6, respectively. Likewise, claims 25, 26, 28 and 30 are apparatus claims directed to a disk drive, and correspond to the method claims 1, 2, 4 and 6, respectively. Accordingly, for the reasons recited above with respect to claims 1, 2, 4 and 6, claims 13, 14, 16 and 18 and claims 25, 26, 28 and 30 define patentable advances over the Douglis patent, and the rejections of claims 13, 14, 16 and 18 and claims 25, 26, 28 and 30 under 35 U.S.C. § 102(b) are improper and should now be withdrawn.

The rejections of claims 19, 20, 22 and 24 and claims 31, 32, 34 and 36 as allegedly anticipated by the Douglis patent are respectfully traversed. Claims 19, 20, 22 and 24 are apparatus claims directed to a mobile device having a disk drive, and correspond to the method

claims 7, 8, 10 and 12, respectively. Likewise, claims 31, 32, 34 and 36 are apparatus claims directed to a disk drive, and correspond to the method claims 7, 8, 10 and 12, respectively. Accordingly, for the reasons recited above with respect to claims 7, 8, 10 and 12, claims 19, 20, 22 and 24 and claims 31, 32, 34 and 36 define patentable advances over the Douglis patent, and the rejections of claims 19, 20, 22 and 24 and claims 31, 32, 34 and 36 under 35 U.S.C. § 102(b) are improper and should now be withdrawn.

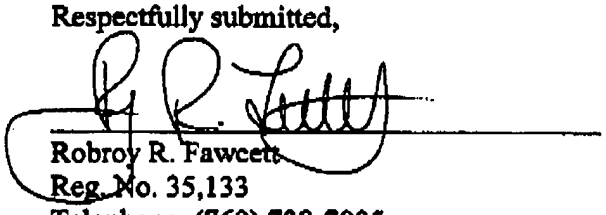
New claims 37-42 recited patentable matter not disclosed in the Douglis patent. Support for the subject matter of claims 37-42 is disclosed in the original specification in Figures 3 and 7 and related discussion at page 4, lines 25-27, and page 8, lines 14-16.

CONCLUSION

In view of the above amendments and remarks, this application should now be in condition for allowance. If any questions or issues remain, the Examiner is invited to contact the undersigned at the telephone number set forth below so that prosecution of this application can proceed in an expeditious fashion.

Respectfully submitted,

Date: October 27, 2004



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